UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,914	03/03/2004	Lee-Yin Chee	SE0044	3848

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EXAMINER
CEHIC, KENAN

ART UNIT	PAPER NUMBER
2416	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tmunoz@hamiltonterrile.com

	Application No.	Applicant(s)
Office Action Summary	10/791,914	CHEE ET AL.
	Examiner	Art Unit	
	KENAN CEHIC	2416	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 May 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>2-6</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>2-6</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

1.   Claim 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kersley et al

(US 2003/0172177) in view of Buechler et al (US 2002/0190356) as evidenced by English, ADA

95: The Craft of Object-Oriented Programming, "Glossary".

For claim 2, Kersley discloses A method for use in verification of a device comprising

(see section 0007 "verification of a device under test"):

providing a plurality of packet classes (see fig. 2; see various packet classes; section

0005-7 "verify a device ...packets can be built...selecting standard packet description

headers and packet payloads...from a packet data base...."; section 0018, 0021-22, 0035;

section 0043 "tests…generate packets…combination of Ethernet, IPv4….");

a plurality of packet classes (fig. 2; see various packet classes; section 0005-7 "verify

a device …packets can be built…selecting standard packet description headers and

packet payloads…from a packet data base…."; section 0018, 0021-22, 0035; section

0043 "tests…generate packets…combination of Ethernet, Ipv4….");

generating a packet (see fig. 2; see various packet classes; section 0005-7 "verify a device

…packets can be built…selecting standard packet description headers and packet

payloads…from a packet data base…."; section 0018, 0021-22, 0035; section 0043

"tests…generate packets…combination of Ethernet, Ipv4…."; section 0047), testing the

device (see sections 0004-7 "generating packets to simulate…packet traffic patterns…to

test and verify a device under test"; sections 0029-33)

generated packet (see fig. 2; see various packet classes; section 0005-7 "verify a device

…packets can be built…selecting standard packet description headers and packet

payloads…from a packet data base…."; section 0018, 0021-22, 0035; section 0043

"tests…generate packets…combination of Ethernet, Ipv4….").

For claim 3, Kersley discloses A <u>method for use in verification of a device</u> (see section

0007 "verification of a device under test"<u>) comprising:</u>

<u>providing a plurality of packet classes</u> (see fig. 2; see various packet classes; section

0005-7 "verify a device …packets can be built…selecting standard packet description

headers and packet payloads…from a packet data base…."; section 0018, 0021-22, 0035;

section 0043 "tests…generate packets…combination of Ethernet, IPv4….")<u>;</u>

<u>generating a packet</u> (see fig. 2; see various packet classes; section 0005-7 "verify a device

…packets can be built…selecting standard packet description headers and packet payloads…from a packet data base….”; section 0018, 0021-22, 0035; section 0043 “tests…generate packets…combination of Ethernet, Ipv4….”; section 0047) and testing the device (see sections 0004-7 “generating packets to simulate…packet traffic patterns…to test and verify a device under test”; sections 0029-33);

For claim 4, Kersley discloses A method for use in verification of a device (see section 0007 “verification of a device under test”) comprising: providing a plurality of packet classes (see fig. 2; see various packet classes; section 0005-7 “verify a device …packets can be built…selecting standard packet description headers and packet payloads…from a packet data base….”; section 0018, 0021-22, 0035; section 0043 “tests…generate packets…combination of Ethernet, IPv4….”);

generating a packet (see fig. 2; see various packet classes; section 0005-7 “verify a device …packets can be built…selecting standard packet description headers and packet payloads…from a packet data base….”; section 0018, 0021-22, 0035; section 0043 “tests…generate packets…combination of Ethernet, Ipv4….”; section 0047); testing the device (see sections 0004-7 “generating packets to simulate…packet traffic patterns…to test and verify a device under test”; sections 0029-33);

For claim 5, Kersley discloses A method for use in verification of a device (see section 0007 “verification of a device under test”) comprising:

(a) providing a plurality of packet classes (see fig. 2; see various packet classes; section 0005-7 “verify a device …packets can be built…selecting standard packet description headers and packet payloads…from a packet data base….”; section 0018, 0021-22, 0035;

section 0043 "tests…generate packets…combination of Ethernet, IPv4….");

(c) generating a packet (see fig. 2; see various packet classes; section 0005-7 "verify a
device …packets can be built…selecting standard packet description headers and packet
payloads…from a packet data base…."; section 0018, 0021-22, 0035; section 0043
"tests…generate packets…combination of Ethernet, Ipv4…."; section 0047);

For claim 6, Kersley discloses repeating the steps of a and c (see section 0043, 0048,
0061; multiple packets of generated using classes).

Kersley does not explicitly discuss:

For claim 2, providing a flag, which may be of a first or a second state, for each of the
plurality of test types; if the flag of the test type of the accessed test is in the first state,
changing the flag of the test type of the accessed test to the second state

For claim 3, providing a flag, which may be of a first or a second state, for each of the
plurality of test types; if the flag of the test type of the accessed test is in the first state,
testing; if the flag of the test type of the accessed test is in the second state, not testing.

For claim 4, providing a flag, which may be of a first or a second state, for each of the
plurality of tests; if the flag of the test type of the accessed test is in the second state, not
testing.

For claim 5, providing an injection flag, which may be of a first or a second state, for
each of the plurality of test types; (e) if the injection flag of the packet class of the test is
in the first state, testing and setting the injection flag of the test type of the accessed /
completed test to the second state.

For claim 6, the steps of b, d, and e.

Beuchler from the field of testing discloses the following:

For claim 2, Buechler discloses providing a flag, which may be of a first or a second

state, for each of the plurality of test types (see section 0078 "records

flags…test…flagged…flag…test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False"); if the flag of the test type of the

accessed test is in the first state, changing the flag of the test type of the accessed test to

the second state (see section 0078 "records flags…test…flagged…flag…test as being

completed"; see D1 page 5; "Flag": A Boolean value which can be "set" to True or

'reset' to False"; if a test is accessed / completed it is flagged)

For claim 3, Buechler discloses providing a flag, which may be of a first or a second

state, for each of the plurality of test types (see section 0078 "records

flags…test…flagged…flag…test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False"); if the flag of the test type of the

accessed test is in the first state, testing (see section 0078 "records

flags…test…flagged…flag…test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False"; if a test is not accessed / completed

the flag is not set and test is performed)

; if the flag of the test type of the accessed test is in the second state, not testing (see

section 0078 "records flags…test…flagged…flag…test as being completed"; see D1

page 5; "Flag": A Boolean value which can be "set" to True or 'reset' to False"; if a test

is accessed / completed it is flagged and test is not performed)

.

For claim 4, Buechler discloses providing a flag, which may be of a first or a second

state, for each of the plurality of tests (see section 0078 "records

flags...test...flagged...flag...test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False"); if the flag of the test type of the

accessed test is in the second state, not testing (see section 0078 "records

flags...test...flagged...flag...test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False"; if a test is accessed / completed it

flagged and test is not performed)

For claim 5, Buechler discloses providing an injection flag, which may be of a first or a

second state, for each of the plurality of test types see section 0078 "records

flags...test...flagged...flag...test as being completed"; see D1 page 5; "Flag": A Boolean

value which can be "set" to True or 'reset' to False")

(e) if the injection flag of the packet class of the test is in the first state, testing (see

section 0078 "records flags...test...flagged...flag...test as being completed"; see D1

page 5; "Flag": A Boolean value which can be "set" to True or 'reset' to False"; if a test

is not accessed / completed the flag is not set and test is performed) and setting the

injection flag of the test type of the accessed / completed test to the second state (see

section 0078 "records flags...test...flagged...flag...test as being completed"; see D1

page 5; "Flag": A Boolean value which can be "set" to True or 'reset' to False"; if a test

is accessed / completed flag is set).

For claim 6, Buechler discloses repeating the steps of b, d, and e (see section 0078

"records flags...test...flagged...flag...test as being completed"; see D1 page 5; "Flag": A

Boolean value which can be "set" to True or 'reset' to False"; if a test is accessed /

completed flag is set).

It would have been obvious to one of the ordinary skill in the art at the time of the

invention to modify / combine the features of Kersley by using the above recited features,

as taught by Beuchler, in order to provide a method a preventing duplication of testing,

thus decreasing wasteful testing time and additional resources used by not performing

tests that already have been performed (see Beuchler sections 0078). One could have

implemented the teaching of Beuchler to the concept of test packets of Kersley, where

flags are kept for the different.

Conclusion

2.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to KENAN CEHIC whose telephone number is (571)270-3120.

The examiner can normally be reached on Monday through Friday 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, KWANG BIN YAO can be reached on (571) 272-3182. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenan Cehic/
Examiner, Art Unit 2416

/Steven HD Nguyen/
Primary Examiner, Art Unit 2416